

TABLE OF CONTENTS**TITLE 22, DIVISION 6****CHAPTER 8.5 RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL****Article 1. License****Section**

General	87800
---------------	-------

Article 2. Definitions

Definitions	87801
License Required	87805
Operation Without a License	87806
Exemption from Licensure	87807
Licensing of Integral Facilities	87808
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87809
Limitations on Capacity and Ambulatory Status	87810
False Claims	87812

Article 3. Application Procedures

Application Qualifications	87817
Application for License	87818
Criminal Record Clearance	87819
Exemption of Criminal Record	87819.1
Fire Clearance	87820
Water Supply Clearance	87821
Plan of Operation	87822
Disaster and Mass Casualty Plan	87823
Waivers and Exceptions	87824
Bonding	87825
Safeguards for Cash Resources, Personal Property, and Valuables of Residents	87826
Initial Application Review	87827
Capacity Determination	87828
Withdrawal of Application	87829
Provisional License	87830
Issuance of License	87831
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87832
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87833
Submission of New Application	87834
Conditions for Forfeiture of a Residential Care Facility for the Chronically Ill License	87835
Application Processing Fees	87836

**RESIDENTIAL CARE FACILITIES
FOR THE CHRONICALLY ILL**

Regulations

TABLE OF CONTENTS (Continued)

Article 4. Administrative Actions

	Section
Denial of Initial License	87840
Repealed by Manual Letter No. CCL-96-17, effective 12/4/96	87841
Revocation or Suspension of License	87842
Licensee/Applicant Complaints	87843
Inspection Authority of the Department or Licensing Agency	87844
Evaluation Visits	87845

Article 5. Enforcement Provisions

Deficiencies in Compliance	87852
Follow-Up Visits to Determine Compliance	87853
Penalties	87854
Administrative Review	87855
Unlicensed Facility Penalties	87858
Unlicensed Facility Administrative Appeal	87859

Article 6. Continuing Requirements

Basic Services to be Provided by the Facility	87860
Reporting Requirements	87861
Finances	87862
Accountability	87863
Administrator - Qualifications and Duties	87864
Facility Manager	87864.1
Personnel Requirements	87865
Staffing Ratios for Day and Night Care and Supervision	87865.1
Personnel Records	87866
Admission AgreementsGeneral	87868
Resident Eviction Procedures	87868.1
Resident Relocation Plan	87868.2
Department Relocation Determination	87868.3
Resident Requests for Review of Relocation Decision	87868.4
Resident Records	87870
Personal Rights	87872
Telephones	87873
Transportation	87874
Food Service	87876
Personal Services (Reserved)	87877
Responsibility for Providing Care and Supervision	87878
Activities (Reserved)	87879

TABLE OF CONTENTS (Continued)

Article 7. Physical Environment

	Section
Alterations to Existing Buildings or New Facilities	87886
Buildings and Grounds	87887
Fixtures, Furniture, Equipment and Supplies	87888
Safety and Sanitation	87889
Animals and Pets in Facilities	87899.1

Article 8. Medical and Health Related Care

Allowable Conditions	87890
Prohibited Conditions	87891
General Requirements for Allowable Conditions	87893
Resident Medical Assessments	87894
Functional Capabilities	87895
Resident Individual Services Plan/Team	87896
Resident Services	87896.1
Oxygen Administration	87897
Colostomy/Ileostomy	87898
Enema and/or Suppository and Fecal Impaction Removal	87899
Indwelling Urinary Catheter/Catheter Procedure/Intermittent Catheterization	87900
External Catheters	87901
Managed Bowel and/or Bladder Incontinence	87902
Diabetes	87903
Injections	87904
Wounds	87905
Transfer Dependency	87906
Dementia	87907
Tracheostomy	87908
Total Parental Nourishment	87909
Gastrostomy Tube Feeding	87910
Naso-Gastric Tube Feeding	87911
Care of Residents Confined to Bed	87912
Smoking	87913
Medications	87914
Storage of Medications	87915
Self-Administered Medications	87916
Medication Procedures	87918
Medication Documentation	87919
Scheduled and Controlled Drugs/Medications	87920
Disposal of Scheduled and Controlled Drugs/Medications	87920.1
PRN Medications	87921
Disposal of Routine Prescription Medications	87922
First Aid Requirements	87923
Do Not Resuscitate Order	87924

CHAPTER 8.5. RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL

Article 1. LICENSE

87800 GENERAL

87800

The provisions of Chapters 1 and 8, Division 6 of Title 22 of the California Code of Regulations shall not apply to the provisions of Chapter 8.5, Division 6, Residential Care Facilities For the Chronically Ill.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

Article 2. DEFINITIONS**87801 DEFINITIONS****87801**

- (a) The following definitions shall apply wherever the terms are used throughout Division 6, Chapter 8.5, except where specifically noted otherwise.
- (1) "Activities of daily living" mean various chores that must be completed by or for a person on a daily basis to meet his/her personal needs.
- (A) Such chores shall include but not be limited to housework, meal preparation, laundry of clothes/linens and other washable items, taking medication, money management, transportation for personal or medical appointments, communicating with others either through telephone or in writing, dressing, eating, toileting, bathing, grooming, and ambulation.
- (2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
- (3) "Adult" means a person who is 18 years of age or older.
- (4) "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without the assistance of any other person and without the use of any mechanical aid in case of an emergency.
- (5) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has applied for a Residential Care Facility for the Chronically Ill license.
- (6) "Appropriately Skilled Professional" means an individual who is licensed in California to perform the necessary medical procedures within his/her scope of practice as prescribed by a physician. This includes, but is not limited to, the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or the facility.

87801	DEFINITIONS (Continued)	87801
--------------	--------------------------------	--------------

- (7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any resident. Such person or entity includes, but is not limited to, a conservator, a public placement agency, or the person who has durable power of attorney for health care for the resident.
- (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services specified in Section 87860 required by applicable laws and regulations, which are to be provided by the licensee in order to obtain and maintain a license to operate a Residential Care Facility for the Chronically Ill.
- (c) (1) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (2) "Care and Supervision" means any one or more of the following activities provided or promised to be provided in the future by a person or facility to meet the needs of the residents:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication.
 - (C) Central storing and/or distribution of medications.
 - (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of residents.
 - (F) Arrangement and managing of resident schedules and activities.
 - (G) Maintenance and/or management of resident cash resources or property.

87801	DEFINITIONS (Continued)	87801
--------------	--------------------------------	--------------

- (H) Monitoring food intake or special diets.
- (I) Providing basic services as defined in Subsection (b)(2) above.
- (3) "Cash Resources" means:
 - (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to, SSI/SSP.
- (4) "Chronic, Life-Threatening Illness" means HIV disease or AIDS.
- (5) "Close Friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (6) "Completed Application" means:
 - (A) The applicant has submitted and the Department has received all required materials including: an approved fire clearance from the appropriate fire authority, a criminal record clearance on the applicant and any other individuals subject to such clearance.
- (7) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.
- (8) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
- (9) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
 - (A) a Grant Deed showing ownership; or

87801	DEFINITIONS (Continued)	87801
--------------	--------------------------------	--------------

- (B) the lease agreement or rental agreement; or
- (C) a court order or similar documents which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
- (10) "Culturally Appropriate Services" mean those services which are planned, offered, and provided by taking into consideration such characteristics of the residents as ethnic/racial group; primary language; preferred foods/diet and meal preparation; preferred manner of dress and clothing; religious affiliation; sexual preference; and educational background.
- (d) (1) "Deficiency" means any failure to comply with any provision of the Residential Care Facilities for Persons with Chronic, Life-Threatening Illness statute (Health and Safety Code, Section 1568.01, et seq.) and/or regulations adopted by the Department pursuant to this statute.
- (2) "Department" means the California State Department of Social Services.
- (3) "Developmental Disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual, as specified in Welfare and Institutions Code Section 4512(a).

Persons who are developmentally disabled shall include persons who have been diagnosed as having mental retardation, cerebral palsy, epilepsy, autism, or who have handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

87801	DEFINITIONS (Continued)	87801
--------------	--------------------------------	--------------

- (4) "Direct Care Attendant" means an individual, employed by a Home Health Agency, who renders direct care services to a resident.
- (5) "Direct Care Services" means the assistance with or performance of services to meet the needs of the resident, including but not limited to, activities of daily living.
- (6) "Direct Care Staff" means those individuals employed by the facility and who provide direct care services to the residents including, but not limited to, assistance with activities of daily living.
- (7) "Director" means the Director of the California State Department of Social Services.
- (8) "Documentation" means written information required to be completed and maintained at the facility by the licensee.
- (9) "Do Not Resuscitate Directive" means the written directions of the resident or the person who holds Durable Power of Attorney for Health Care for the resident to the resident's primary care physician to withhold emergency resuscitation should the resident stop breathing and to request the issuance of a Do Not Resuscitate Order by the physician.
- (10) "Do Not Resuscitate Order" means the order of the resident's primary care physician to alert appropriately skilled professionals that the resident does not want measures to be taken to resuscitate him/her and to withhold emergency resuscitation should the resident stop breathing.

87801 DEFINITIONS (Continued)**87801**

- (11) "Durable Power of Attorney for Health Care" means a power given to a person to act on behalf of another person in the event that the resident becomes unable to give informed consent to health care as specified in California Civil Code, Sections 2430 et seq.
- (e) (1) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.
- (2) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department.
- (3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.
- (4) "Exception" means a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific resident(s) or staff person(s). Exceptions are granted for particular resident(s) or staff person(s) and are not transferable or applicable to other residents, staff persons, facilities or licensees.
- (5) "Exemption" means an exception to the requirements of Health and Safety Code Section 1568.09 and applicable regulations. Exemptions are not transferable.

HANDBOOK BEGINS HERE

(A) Section 1568.09(a) of the Health and Safety Code states:

If it is found that the applicant or any other person specified in Subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the California Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

HANDBOOK ENDS HERE

87801	DEFINITIONS (Continued)	87801
--------------	--------------------------------	--------------

- (f) (1) "Family unit" means a group composed of at least one parent or guardian and at least one of that person's minor children and in which at least one adult or child, or both, has HIV disease or AIDS.
- (g) (Reserved)
- (h) (1) "Hazardous Waste" means "medical waste" as defined by Health and Safety Code Section 25023.2 and "hazardous waste" as defined in Health and Safety Code Section 25117.
- (2) "Home Health Agency" means a provider licensed by the Department of Health Services in accordance with Health and Safety Code Section 1725 et seq. to perform various health related services to a person in his/her own home or in a licensed or exempt facility.
- (i) (1) "Individual Services Plan" means the documentation of the needs and services required by the resident as specified in Section 87896.
- (2) "Individual Services Team" means those individuals who are involved in the planning and/or delivery of services or care to the resident as specified in Section 87896(b).
- (3) "Instruct" means to furnish an individual with knowledge or to teach, give orders, or directions regarding a process or procedure.
- (4) "Intermittent Home Health Care" is the treatment and/or observation of a resident by an appropriately skilled professional for a maximum of eight (8) hours per day per resident in the facility.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "License" means written authorization to operate a Residential Care Facility for the Chronically Ill and to provide care and supervision. The license is not transferable.
- (2) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed Residential Care Facility for the Chronically Ill.
- (m) "Mental Disorder" means any of the disorders which render a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

87801 DEFINITIONS (Continued)**87801**

- (n) (1) "Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. A person is not deemed nonambulatory solely because he/she is deaf, blind or prefers to use a mechanical aid.
- (2) "Nutritionist" means a person who has a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.
- (o) (Reserved)
- (p) (1) "Physician" means a person licensed as a physician by the California Medical Board or by the California Board of Osteopathic Examiners.
- (2) "Provision" or "Provide" means the licensee shall make available any service, personnel, or meet other requirements, directly or present evidence to the Department that the requirement has been met by some other means.
- (3) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months.
- (4) "Psychosocial Support Services" means counseling services provided to the resident to enable him/her to accept/acknowledge his/her chronic illness and its probable cause and outcome.
- (q) (Reserved)
- (r) (1) "Registered Nurse Case Manager" means the registered nurse who is responsible for coordinating the delivery of services as identified in the Individual Services Plan.
- (2) "Relative" means the resident's spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution. Such relationships include kinships formed by birth or adoption.

87801 (Cont.)	RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL	Regulations
87801	DEFINITIONS (Continued)	87801
	(3) "Resident" means any or all of the following: any adult receiving care and supervision, any emancipated minor receiving care and supervision, and any adult or unemancipated minor in a family unit.	
	(4) "Residential Care Facility for the Chronically Ill" means any place, building, or housing arrangement which is maintained and operated to provide care and supervision to all or any of the following:	
	(A) Adults with HIV disease or AIDS,	
	(B) Emancipated minors with HIV disease or AIDS, or	
	(C) Family units as defined in Section 87801(f)(1) with adults or children or both with HIV disease or AIDS.	
(s)	(1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the residents of Residential Care Facilities for the Chronically Ill.	
	(2) "Shall" means mandatory.	
	(3) "Significant Other" means a person, including a person of the same sex, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Chronically Ill. The partnership involves two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.	
	(4) "Social Worker" means a person who has a graduate degree from an accredited school of social work or social welfare.	
	(5) "SSI/SSP" means the Supplemental Security Income/State Supplementary Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.	
	(6) "Substantial Compliance" means the absence of any serious deficiencies.	
	(7) "Substantiated Complaint" means a complaint which has been investigated by the Department, and as a result, a violation of regulations or statute has been found.	
	(8) "Supervision" means to oversee or direct the activity of a subordinate but does not necessarily require the immediate presence of the supervisor.	
	(9) "Support Staff" means those individuals working in the facility, in an ancillary position, including but not limited to, housekeeper, cook, or maintenance personnel.	

87801 **DEFINITIONS** (Continued)**87801**

- (t) (1) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.
- (2) "Tuberculin Skin Test" means using the Mantoux technique and recording test results in millimeters of induration (swelling).
- (u) (1) "Unlicensed Residential Care Facility for the Chronically Ill" means a facility is providing or has promised to provide care and supervision, as defined in Subsection (c) (2) above. Examples of unlicensed facilities shall include, but not be limited to, any one of the following circumstances:
- (A) The facility accepts or retains residents who demonstrate the need for care or supervision, without being licensed as a Residential Care Facility for the Chronically Ill. Such unlicensed facilities shall include, but not be limited to:
- (1) A facility whose license has been revoked or denied, but the facility continues to provide care for the same residents or different residents with similar needs.
- (2) A facility where a change of ownership has occurred and the same residents are retained and the new owner has not filed an application for license.
- (3) A licensed facility which moves to a new location without filing a new application for license.
- (4) An unlicensed facility which advertises as providing care and/or supervision.
- (5) A facility with residents requiring care and/or supervision, even though the facility is providing board and room only, or board only, or room only.
- (6) A facility, where it is apparent that care and/or supervision are being provided by virtue of the resident's needs being met.

87801	DEFINITIONS (Continued)	87801
--------------	--------------------------------	--------------

- (2) "Urgent Need" means a situation where prohibiting the operation of the facility would be detrimental to the residents' physical health, mental health, safety, or welfare. Circumstances constituting urgent need include, but are not limited to, the following:
- (A) A change in facility location when residents are in need of services from the same operator at the new location.
- (B) A change of facility ownership when residents are in need of services from a new operator.
- (v) "Voluntary" means resulting from free will.
- (w) (1) "Waiver" means a nontransferable written authorization by the Department to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.
- (2) "Wound" means a surgical incision, laceration of the skin, Stage I or II decubitus ulcers, skin eruptions or skin lesions.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.01, 1568.02, 1568.03, 1568.061, 1568.064 and 1568.072, Health and Safety Code.

87805	LICENSE REQUIRED	87805
--------------	-------------------------	--------------

- (a) Unless a facility is exempt from licensure as specified in Section 87807, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a Residential Care Facility for the Chronically Ill, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the Department.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.03, Health and Safety Code.

87806	OPERATION WITHOUT A LICENSE	87806
--------------	------------------------------------	--------------

- (a) An unlicensed facility, as defined in Section 87801 (u)(1), is in violation of Section 1568.03 (a) of the Health and Safety Code unless exempted from licensure pursuant to Section 87807.
- (b) If the facility is alleged to be operating without a license in violation of Section 1568.03 of the Health and Safety Code, the Department shall conduct a site visit and evaluation of the facility to determine if it is operating without a license.
- (c) If the facility is operating without a license, the Department shall issue a notice of operation in violation of law.
- (d) The Department shall have the authority to assess an immediate penalty to unlicensed operations as specified in Section 87858.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.03, 1568.072 and 1568.0821, Health and Safety Code.

87807	EXEMPTION FROM LICENSURE	87807
--------------	---------------------------------	--------------

- (a) The Residential Care Facility for the Chronically Ill regulations contained in this chapter shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1200 of the Health and Safety Code.
 - (3) Any house, institution, hotel, share housing project, or other similar place that supplies board and room only, or board only, which provides no element of care and supervision and no resident requires any element of care and supervision or protective supervision.
 - (4) Any arrangement for the receiving of care and supervision provided to one person with a chronic, life-threatening illness or to one family unit as defined in Section 87801(f)(1) by a relative, guardian, conservator, significant other, or close friend.
 - (5) Any arrangement for the receiving of care and supervision of one person with chronic, life-threatening illness or of one family unit as defined in Section 87801(f)(1) from only one family as respite for the relative, conservator, significant other, or a close friend, if the arrangement is not for financial profit and does not exceed 48 hours per month.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.03 and 1568.072, Health and Safety Code.

87808	LICENSING OF INTEGRAL FACILITIES	87808
--------------	---	--------------

- (a) Upon written application from the licensee, the Department shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses, provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If (a) above does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations, as determined by the Department.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

87809	PROHIBITION OF DUAL LICENSURE	87809
--------------	--------------------------------------	--------------

Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87810	LIMITATIONS ON CAPACITY AND AMBULATORY STATUS	87810
--------------	--	--------------

- (a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license.
- (1) Unemancipated minors who are not residing in the facility with a guardian or custodial parent shall be prohibited from residing in the facility.
- (2) The maximum capacity for which a license may be issued shall not exceed 50 persons, including all of the following:
- (A) adults with HIV disease or AIDS,
- (B) adults in residence as members of family units whether or not they have HIV disease or AIDS,
- (C) emancipated minors with HIV disease or AIDS, and
- (D) children as members of family units whether or not they have HIV disease or AIDS.
- (b) Facilities or rooms restricted to ambulatory residents only shall not be used by nonambulatory residents.
- (1) Residents whose status becomes nonambulatory shall not use rooms or areas restricted to ambulatory residents.
- (2) The Department shall have the authority to require licensees to demonstrate that only ambulatory residents use rooms restricted to ambulatory residents.
- (c) The facility capacity shall not exceed 25 residents.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.01, 1568.02, 1568.072, 1568.083 and 13143, Health and Safety Code.

87812	FALSE CLAIMS	87812
--------------	---------------------	--------------

- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

Article 3. APPLICATION PROCEDURES

87817 APPLICANT QUALIFICATIONS 87817

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status or sexual orientation.
- (b) Prior to filing an application, the applicant shall attend an orientation program provided by the Department.
 - (1) The orientation shall cover, but not be limited to, the following areas:
 - (A) Completion of the application for license.
 - (B) Scope of responsibility for operation of a Residential Care Facility for the Chronically Ill.
 - (C) Information pertaining to community services and resources.
 - (D) Applicable laws and regulations.
 - (2) If the applicant is a partnership, the orientation shall be attended by a general partner.
 - (3) If the applicant is a firm, corporation, county, city, public agency or other governmental entity, the orientation shall be attended by a chief executive officer or authorized representative.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.06 and 1568.072, Health and Safety Code.

87818 APPLICATION FOR LICENSE 87818

- (a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring to obtain a license shall file with the Department a verified application on forms specified below and furnished by the Department:
 - (1) Application -- LIC 200 (9/87)
 - (2) Applicant Information -- LIC 215 (8/87)
 - (3) Designation of Administrative Responsibility -- LIC 308 (3/87)
 - (4) Administrative Organization -- LIC 309 (8/86)

87818	APPLICATION FOR LICENSE (Continued)	87818
--------------	--	--------------

- (5) Affidavit Regarding Client Cash Resources -- LIC 400 (9/86)
- (6) Estimated Operating Budget -- LIC 401 (11/82)
- (7) Surety Bond -- LIC 402 (1/87)
- (8) Financial Statement -- LIC 403 (3/83)
- (9) Financial Information Release and Verification -- LIC 404 (10/86)
- (10) Personnel Report -- LIC 500 (10/86)
- (11) Personnel Record -- LIC 501 (8/87)
- (12) Health Screening Report - Facility Personnel -- LIC 503 (9/86)
- (13) Disaster and Mass Casualty Plan -- LIC 610 (10/88)
- (b) The applicant/licensee shall cooperate with the Department in providing verification and/or documentation as requested by the Department.
- (c) The application and supporting documents shall contain the following:
 - (1) Name or proposed name and address of facility.
 - (2) Name, and residence and mailing addresses of applicant.
 - (A) If the applicant is a partnership, the name, and principal business address of each partner.
 - (B) If the applicant is a corporation or association, the name, title and principal business address of each officer and member of the governing board.
 - (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.

87818	APPLICATION FOR LICENSE (Continued)	87818
--------------	--	--------------

- (D) If the applicant is a corporation, a copy of the articles of incorporation and bylaws.
- (E) If the applicant is an association, a copy of the bylaws.
- (3) Name and address of owner of facility premises, if applicant is leasing or renting.
- (4) The category of facility to be operated.
- (5) Capacity requested.
- (6) Age range, sex and target group of persons to be served.
- (7) Name of administrator.
- (8) Information regarding the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in any community care facility, residential care facility for the chronically ill, residential care facility for the elderly, or child day care facility, or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) of the Health and Safety Code.
- (9) Information regarding any revocation or disciplinary action taken or in the process of being taken against a license held or previously held by the entities as specified in Subsection (8) above.
- (10) Facility Transfer Agreement with an acute care hospital for the care of residents who require a higher level of care.
- (11) Copy of contract with a hazardous waste disposal company for disposal of hazardous materials.
- (12) Copy of contract with a Nutritionist.
- (13) Copy of contract with a home health agency for case management of the residents and other services as needed.
- (14) Copy of contract with a psychologist, psychiatrist, social worker, or other appropriately skilled professional to provide psychosocial support services to the residents, unless the facility will be staffed to provide such services.

87818	APPLICATION FOR LICENSE (Continued)	87818
--------------	--	--------------

- (15) Copy of contract with an individual or agency which provides substance abuse counseling, unless the facility will be staffed to provide such services.
 - (16) Specification of the services to be provided to the targeted population.
 - (17) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.
 - (18) A plan of operation as specified in Section 87822.
 - (19) Fingerprint cards as specified in Section 87819 (b).
 - (20) The bonding affidavit specified in Section 87825.
 - (21) A health screening report on the applicant.
 - (22) The fee for processing the application as specified in Section 87836.
 - (23) Such other information as may be required by the Department.
- (d) The application shall be signed by the applicant(s).
- (1) If the applicant is a partnership, the application shall be signed by each general partner.
 - (2) If the applicant is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.
- (e) The application shall be filed with the licensing office of the Department which serves the geographical area in which the facility is located.
- (1) Within 60 days of receipt of the completed application, the Department shall complete a site visit to the facility.
- (f) For licensees of existing licensed facilities, the Department shall not require the licensee to complete the entire application process when he/she applies for a new license due to a change in the facility location.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.04, 1568.05, and 1568.072, Health and Safety Code.

87819 CRIMINAL RECORD CLEARANCE 87819

- (a) The Department shall conduct a criminal record review of all the persons listed in Subsection (b) below and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility based upon the results of such review.
- (1) A criminal record clearance shall be received by the Department on the applicant, administrator and all adults, other than residents, residing in the facility, prior to issuing a license.

HANDBOOK BEGINS HERE

- (A) Section 1568.09(b) of the Health and Safety Code states in part:

If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

- (B) Section 1568.09(g) of the Health and Safety Code states:

- (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.
- (2) The California Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

HANDBOOK ENDS HERE

- (2) All persons subject to criminal record review shall, prior to employment, residence or initial presence in the facility be fingerprinted and sign a statement regarding prior criminal convictions, as specified in Section 87865(j).

87819	CRIMINAL RECORD CLEARANCE (Continued)	87819
--------------	--	--------------

- (3) The licensee shall submit completed fingerprint cards to the Department of Justice not later than four calendar days following a person's employment, residence, or initial presence in the facility.

HANDBOOK BEGINS HERE

- (A) Section 1568.09(c)(2) of the Health and Safety Code provides in part:

These fingerprints shall be on a card provided by the California Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the California Department of Social Services for processing.

HANDBOOK ENDS HERE

- (b) The following persons and any other adults specified in Health and Safety Code Section 1568.09 shall be required to be fingerprinted and comply with applicable criminal records requirements:
- (1) The applicant for the license.
- (A) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.
- (2) Adults responsible for administration or direct supervision of staff.
- (3) Any person, other than a resident, residing in the facility.
- (4) Any facility personnel who provides resident assistance in dressing, grooming, bathing, or personal hygiene.
- (5) Any staff person or employee who has frequent and routine contact with the residents.

87819	CRIMINAL RECORD CLEARANCE (Continued)	87819
--------------	--	--------------

- (c) The following persons shall not be required to meet the fingerprint requirement:
- (1) Facility staff and employees who are under the direct on will not provide direct care and supervision to the residents and who will only have occasional or intermittent contact with residents.
 - (2) A facility volunteer who is not used to replace or supplement staff in providing direct care and supervision of residents.
 - (3) A facility volunteer who provides direct care and supervision if he/she is a resident's spouse, significant other, close friend or family member and provides direct care and supervision to that resident only at the request of the resident.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072 and 1568.09, Health and Safety Code.

87819.1	EXEMPTION OF CRIMINAL RECORD	87819.1
----------------	-------------------------------------	----------------

- (a) The Department shall notify the licensee or applicant if the criminal record transcript discloses that the persons specified in Section 87819 (b) have been convicted of a crime, other than a minor traffic violation, or discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime, other than a minor traffic violation for which the fine was \$50 or less, before April 5, 1984 or for which a fine is established by paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code, after April 4, 1984.
- (b) The licensee shall, upon notification of the conviction and directive by the Department, act immediately to either (1) remove the person from the facility, or bar the person from entering the facility; or (2) seek an exemption. Pursuant to Health and Safety Code Section 1568.09, the Department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

87819.1 EXEMPTION OF CRIMINAL RECORD (Continued)**87819.1**

HANDBOOK BEGINS HERE

- (1) Section 1568.09(c) of the Health and Safety Code provides in part:

...If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (e).

- (2) Section 1568.09(e) of the Health and Safety Code provides in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

- (3) Section 1568.09(h) of the Health and Safety Code provides:

If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

HANDBOOK ENDS HERE

87819.1 EXEMPTION OF CRIMINAL RECORD (Continued)**87819.1**

- (c) The Department shall take the following actions if a criminal record exemption is not or cannot be granted:
- (1) For initial applicants, denial of the application.
 - (2) For current licensees, denial of the renewal application or institution of other legal remedies, including but not limited to revocation of the license.
 - (3) For current or prospective employees, denial of the application or revocation of the license if the person continues to provide services and/or reside in the facility.
 - (4) For persons residing in the facility, including spouses of the applicant, licensee, or employee, denial of the application or revocation of the license, if the person continues to provide services and/or reside at the facility.

HANDBOOK BEGINS HERE

(A) Section 243.4 of the Penal Code provides:

1. Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three or four years.
2. Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three or four years.
3. Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. Such an act is punishable by imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

HANDBOOK CONTINUES

87819.1 EXEMPTION OF CRIMINAL RECORD (Continued)**87819.1**

HANDBOOK CONTINUES

4. Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or both. As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.
5. As used in subdivisions (a), (b), and (c), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.
6. As used in this section, the following terms have the following meanings:
 - (i) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.
 - (ii) "Sexual battery" does not include the crimes defined in Section 261 or 289.
 - (iii) "Seriously disabled" means a person with severe physical or sensory disabilities.
 - (iv) "Medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.
 - (v) "Institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

7. This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is prescribed by this section.

(B) Section 273a of the Penal Code provides:

1. Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.
2. Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(C) Section 273d of the Penal Code provides in part:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4, or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

HANDBOOK CONTINUES

87819.1	EXEMPTION OF CRIMINAL RECORD (Continued)
----------------	---

87819.1

HANDBOOK CONTINUES

(D) Section 368 (a) and (b) of the Penal Code provides:

1. Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.
2. Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

(E) Section 1568.09(c)(4) of the Health and Safety Code provides in part:

If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the persons' employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (g). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

HANDBOOK ENDS HERE

87819.1 EXEMPTION OF CRIMINAL RECORD (Continued)

87819.1

- (d) The applicant or the licensee may request that the Director consider an exemption on behalf of the convicted person, unless the exemption is prohibited in Health and Safety Code Section 1568.09.

HANDBOOK BEGINS HERE

- (1) Section 1568.09(c)(6) of the Health and Safety Code provides:

Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

HANDBOOK ENDS HERE

- (e) If the Director grants an exemption, the Department shall have the authority to approve a facility license, or a person's employment, residence, or presence in the facility.
- (1) The following factors shall be considered as evidence of good character and rehabilitation in determining whether an exemption should be granted:
- (A) The nature of the crime.
 - (B) Period of time since the crime was committed and number of offenses.
 - (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (D) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (E) Granting by the Governor of a full and unconditional pardon.
 - (F) Character references.
 - (G) A certificate of rehabilitation from a superior court.
- (f) The reasons for any exemption granted shall be in writing and kept by the Department.

87819.1 EXEMPTION OF CRIMINAL RECORD (Continued)**87819.1**

HANDBOOK BEGINS HERE

(g) Section 1568.09(f)(1) of the Health and Safety Code provides in part:

However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Sections 220, 243.4, 264.1 or subdivision (a) of Section 273a, or prior to January 1, 1994, paragraph (1) of subdivision (a) of Section 273a, Sections 273d, 288, or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(h) Section 667.5(c) of the Penal Code states:

(1) For the purpose of this section, "violent felony" shall mean any of the following:

- (A) Murder or voluntary manslaughter.
- (B) Mayhem.
- (C) Rape as defined in subdivision (2) of Section 261.
- (D) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- (E) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- (F) Lewd acts on a child under 14 as defined in Section 288.
- (G) Any felony punishable by death or imprisonment in the state prison for life.
- (H) Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

- (I) Any robbery perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the robbery.
- (J) Arson, in violation of subdivision (a) of Section 451.
- (K) The offense defined in subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- (L) Attempted murder.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072 and 1568.09, Health and Safety Code.

87820	FIRE CLEARANCE	87820
--------------	-----------------------	--------------

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.
- (1) The Department shall maintain a copy of the request and the fire clearance report in the facility file.
- (b) The applicant shall notify the Department if the facility plans to admit either of the following categories of residents, so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such residents:
- (1) Persons who are bedridden.
- (2) Persons who are nonambulatory, as defined in Section 87801(n)(1).

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.072 and 13143, Health and Safety Code.

87821	WATER SUPPLY CLEARANCE	87821
--------------	-------------------------------	--------------

- (a) All facilities where water for human consumption is from a private source shall meet the following requirements:
- (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.

87821	WATER SUPPLY CLEARANCE (Continued)	87821
--------------	---	--------------

- (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as necessary to ensure the safety of the residents, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect residents.
7 through 15	Initial Licensing	Annually
16 through 25	Initial Licensing	Semiannually

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

87822	PLAN OF OPERATION	87822
--------------	--------------------------	--------------

- (a) Each licensee shall maintain on file a current, written plan of operation.
- (b) The plan and related materials shall contain the following:
- (1) Statement of purposes, and program methods and goals.
 - (2) Statement of admission policies and procedures regarding acceptance of residents.
 - (3) A copy of the admission agreement.
 - (4) A copy of the planned facility's house rules.
 - (5) Administrative organization, if applicable.
 - (6) Staffing plan, qualifications and duties.
 - (7) Plan for inservice training and continuing educational training of staff.

87822	PLAN OF OPERATION (Continued)	87822
--------------	--------------------------------------	--------------

- (8) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and designation of the rooms to be used for nonambulatory residents, if any.
- (9) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools and other bodies of water, gardens, recreation areas and other space used by the residents.
 - (A) The sketch shall include the dimensions of all areas which will be used by the residents.
- (10) A sample menu for one calendar week indicating the time of day that meals and snacks are to be served.
- (11) Transportation arrangements for residents who do not have independent arrangements for medical, dental appointments and other appointments for professional services as required by this chapter.
- (12) Rate setting policy including, but not limited to, policy on refunds.
- (13) A statement whether or not the licensee will handle the residents' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Section 87826.
- (14) Consultant and community resources to be utilized by the facility as part of its program.
- (15) The facility's policy regarding visiting hours, including the conditions under which a visit may be prohibited.
- (16) The facility's policy regarding the resident's use of the telephone and receiving written communication.
- (17) The facility's policy regarding the designated smoking area.
- (18) The facility's policy governing the use of alcohol and prohibition of illegal drug use.

87822	PLAN OF OPERATION (Continued)	87822
--------------	--------------------------------------	--------------

- (19) A statement regarding whether the facility will accept persons who request a "DO NOT Resuscitate Order".
 - (20) If the facility will accept such persons, a plan for ensuring that the "DO NOT Resuscitate Order" as stipulated by the resident or the person who has durable power of attorney for health care is carried out by the appropriately skilled professional.
 - (21) The facility's plan for the internal handling of hazardous waste.
 - (22) The facility's plan for relocating children when the adult members of their family units are hospitalized, relocate, become unable to meet the child's needs, or die.
- (c) The plan of operation shall include the name, address, telephone number, qualifications, licenses and credentials of the persons or agencies who will provide the following services for the residents, if not provided by the facility:
- (1) Counseling regarding chronic, life-threatening illness, current information on treatment of the illness, and the possible effects of the illness on the resident's physical and/or mental health.
 - (2) Psychosocial support services.
 - (3) Death and dying counseling which must focus, at least in part, on the grieving process.
 - (4) Consultation on housing, health benefits, financial support, community-based and county services system.
 - (5) Home health care services.
 - (6) Alternative language services for residents who do not speak English, if not provided by the facility.
 - (7) Culturally appropriate services.
 - (8) Assistance for residents who have physical disabilities, including but not limited to hearing and motor impairments.
- (d) Any changes in the plan of operation which affect the services to residents shall be subject to Department approval and shall be reported.
- (e) The facility shall operate in accordance with the terms specified in the plan of operation.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

87823	DISASTER AND MASS CASUALTY PLAN	87823
--------------	--	--------------

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the Department and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Contingency plans for action in case of fires, floods, and earthquakes, including, but not limited to, the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for residents.
 - (D) Arrangements for supervision of residents during evacuation and/or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies, including, but not limited to, the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all residents, age and abilities permitting, all staff, and/or members of the household in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.
 - (1) Completion of such drills shall not require travel away from the facility grounds or contact with local disaster agencies.
 - (2) The drills shall be documented and the documentation maintained in the facility for at least one year.
 - (3) Residents who are too ill to participate in the drills shall be excluded.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code.

87824	WAIVERS AND EXCEPTIONS	87824
--------------	-------------------------------	--------------

- (a) Unless prior written approval is granted by the Department, as specified in (b) below, all licensees shall maintain continuous compliance with licensing regulations.
- (b) The Department shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conducting of experimental or demonstration projects under the following circumstances:
 - (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility resident.
 - (2) The applicant or licensee shall submit to the Department a written request for a waiver or exception, together with substantiating evidence supporting the request.
 - (3) The Department shall provide written approval or denial of the request.
- (c) Within 30 days of receipt of a request for a waiver or an exception, the Department shall notify the applicant or licensee in writing of one of the following:
 - (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time specified shall result in denial of the request.
- (d) Within 30 days of notification of an acceptable request for a waiver or exception, the Department shall notify the applicant or licensee in writing whether the request has been approved or denied.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 15376, Government Code and Section 1568.072, Health and Safety Code.

87825	BONDING	87825
--------------	----------------	--------------

- (a) The licensee shall submit an affidavit, on a form (Surety Bond -- LIC 402 (1/87)) provided by the Department, stating whether he/she safeguards or will safeguard cash resources of residents and the maximum amount of cash resources to be safeguarded for all residents or each resident in any month.
- (b) All licensees who are entrusted to care for and control residents' cash resources shall file or have on file with the Department, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
\$750 or less	\$1,000
\$751 to \$1,500	\$2,000
\$1,501 to \$2,500	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the Department prior to the licensee safeguarding amounts of residents' cash resources in excess of the current bond.
- (e) Whenever the Department determines that the amount of the bond is insufficient to provide necessary protection of residents' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the Department shall have the authority to require the licensee to file an additional bond in such amount as the Department determines to be necessary to protect the residents' cash resources.
- (f) The provisions of this section shall not apply if the licensee handles money of residents in amounts less than fifty dollars (\$50) per person and less than five hundred dollars (\$500) for all residents in any month.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.021 and 1568.072, Health and Safety Code.

87826	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES	87826
--------------	--	--------------

- (a) A licensee shall not be required to accept for admission or continue to care for any resident whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such resident's cash resources.
- (b) If such a resident is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility who has been designated by the resident or his/her authorized representative shall be handled by the licensee or facility staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.
- (c) No licensee or employee of a licensee shall accept appointment as a conservator of the person, or estate, or person and estate of any resident nor accept any general or special power of attorney except for Medi-Cal or Medicare claims for any resident; nor become the substitute payee for any payments made to any resident, except:
 - (1) a licensee who is appointed by the Social Security Administration may be representative payee for a resident.
- (d) Cash resources, personal property, and valuables of residents handled by the licensee shall be free from any liability the licensee incurs.
- (e) Cash resources, personal property, and valuables of residents shall be separate and intact, and shall not be commingled with facility funds or petty cash.
 - (1) The above requirement shall not prohibit the licensee from providing advances or loans to residents from facility funds.
 - (A) Documentation of such transactions shall be maintained in the facility.
- (f) The licensee or employee of a licensee shall not make expenditures from residents' cash resources for any basic services required by these regulations, or for any basic services identified in a contract/admission agreement between the resident and the licensee.
- (g) The licensee shall not commingle cash resources and valuables of residents with those of another residential care facility of a different license number, regardless of joint ownership.

87826	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	87826
--------------	--	--------------

- (h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to, the following:
- (1) Records of residents' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each resident. Supporting receipts for purchases shall be filed in chronological order.
 - (A) Receipts for cash provided to any resident from his/her account(s) shall include the resident's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

"(full signature of resident) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."
 - (B) The store receipt shall constitute the receipt for purchases made for the resident from his/her account.
 - (C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the resident's authorized representative, if any, otherwise to the resident.
 - (2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.
- (i) Immediately upon admission of a resident, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:
- (1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.

87826	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	87826
--------------	--	--------------

- (2) The account title shall clearly note that the account contains resident cash resources.
- (3) The licensee shall provide access to the cash resources upon demand by the resident or his/her authorized representative.
- (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.
- (k) Upon discharge of a resident, all cash resources, personal property, and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident, or his/her authorized representative, if any.
 - (1) The licensee shall obtain and retain a receipt signed by the resident or his/her authorized representative.
- (l) Upon the death of a resident, all cash resources, personal property and valuables of that resident shall immediately be safeguarded in accordance with the following requirements:
 - (1) All cash resources shall be placed in an account as specified in (i) above.
 - (2) The executor or the administrator of the estate shall be notified by the licensee of the resident's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.
 - (3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the resident's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.

87826	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued)	87826
--------------	--	--------------

- (4) If the licensee is unable to notify a responsible party as specified in (2) or (3) above, the licensee shall give immediate written notice of the resident's death to the public administrator of the county as provided in Section 1145 of the California Probate Code.
- (m) The following requirements shall be met whenever there is a proposed change of licensee:
 - (1) The licensee shall notify the Department of any pending change of licensee, and shall provide the Department an accounting of each resident's cash resources, personal property and valuables entrusted to his/her care.
 - (A) Such accounting shall be made on a form (Accounting Record for Change Of Licensee -- LIC 424 (1/84)) provided or approved by the Department.
 - (2) Provided the Department approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the Department.
- (n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of \$100, provided by or on behalf of a resident to the licensee, administrator or staff.
 - (1) The record shall be attached to the account(s) specified in (h) above if the resident's cash resources, personal property or valuables have been entrusted to the licensee.
 - (2) Monetary gifts or valuables given by the friends or relatives of a deceased resident shall not be subject to the requirement specified in (n) and (n)(1) above.
- (o) The licensee shall not become joint tenant on any account specified in Section 87826(i) with a resident.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code; and 20 CFR 416.601.

87827	INITIAL APPLICATION REVIEW	87827
--------------	-----------------------------------	--------------

- (a) Within 90 days of receipt by the Department of the application specified in Section 87818, the Department shall give written notice to the applicant of one of the following:
- (1) The application is complete.
 - (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
- (b) If the applicant does not submit the requested information within the 30 days specified in (a)(2) above, the application shall be deemed withdrawn, provided that the Department has not denied or taken action to deny the application.
- (1) If the applicant plans to continue the application process, the applicant shall be required to submit a new application Form LIC 200 as specified in Section 87834(b).
 - (2) The above requirement shall not apply to applications for facilities under construction.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Section 1568.072, Health and Safety Code and Section 15376, Government Code.

87828	CAPACITY DETERMINATION	87828
--------------	-------------------------------	--------------

- (a) A license shall be issued for a specific capacity not to exceed 50 persons.
- (b) The number of persons for whom the facility is licensed to provide care and supervision shall be determined on the basis of the application review by the Department, which shall take into consideration the following:
- (1) Whether the appropriate fire clearance has been approved.
 - (2) The applicant/licensee's ability to comply with applicable laws and regulations.

87828	CAPACITY DETERMINATION (Continued)	87828
--------------	---	--------------

- (3) Any other household members who reside at the facility and their individual needs.
 - (A) The applicant's/licensee's responsibilities to other persons in the home may preclude his/her ability to care for residents.
- (4) Physical features of the facility, including available living spaces, which are necessary in order to comply with regulations.
- (5) Number of qualified staff available to meet the care and supervision needs of the residents.
- (c) The Department shall have the authority to issue a license for fewer residents than is requested based upon determinations made pursuant to Section 87828(b) above.
- (d) When the license is issued for fewer residents than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision.
- (e) The Department shall have the authority to decrease existing licensed capacity when there is a change in any of the factors specified in (b) above.
 - (1) If the licensee does not comply with the decrease in capacity, the Department shall have the authority to initiate revocation action.
- (f) The Department shall have the authority to restrict care to specific individuals:
 - (1) If care and supervision is limited to specific individuals, the Department shall specify the names of the individuals in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.02 and 1568.072, Health and Safety Code.

87829 WITHDRAWAL OF APPLICATION 87829

(a) An applicant shall have the right to withdraw an application for a license.

(1) Such withdrawal shall be in writing.

(2) The fee for processing the application shall be forfeited.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.05 and 1568.072, Health and Safety Code.

87830 PROVISIONAL LICENSE

87830

(a) The Department shall have the authority to issue a provisional license to an applicant, pending action on a completed application for an initial license, if it determines that all of the following circumstances exist:

(1) The facility is in substantial compliance with applicable law and regulation.

(2) An urgent need for licensure exists.

(b) The capacity of a provisional license shall be limited to the number of residents for whom urgent need has been established, or the capacity established for the specific facility, whichever is less.

(c) The Department shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.

(d) The Department shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

87830	PROVISIONAL LICENSE (Continued)	87830
--------------	--	--------------

- (e) If, during the provisional license period, the Department discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings.
- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.062 and 1568.072, Health and Safety Code.

87831	ISSUANCE OF LICENSE	87831
--------------	----------------------------	--------------

- (a) Within 90 days of the date that a completed application, as defined in Section 87801(c)(6), has been received, the Department shall give written notice to the applicant of one of the following:
 - (1) The application has been approved.
 - (2) The application has been denied.
 - (A) The notice of denial shall include the information specified in Section 87840.
- (b) The Department shall notify the applicant in writing of the issuance of the license.
 - (1) Issuance of the license shall constitute written notification of license approval.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.062 and 1568.072, Health and Safety Code and Section 15376, Government Code.

87832	RESIDENTIAL CARE FACILITIES FOR THE CHRONICALLY ILL	Regulations
-------	--	-------------

87832	TERM OF AN INITIAL OR RENEWAL LICENSE	87832
-------	---------------------------------------	-------

Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87833	APPLICATION FOR RENEWAL OF A LICENSE	87833
-------	--------------------------------------	-------

Repealed by Manual Letter No. CCL-96-17, effective 12/4/96.

87834	SUBMISSION OF NEW APPLICATION	87834
--------------	--------------------------------------	--------------

- (a) A licensee shall file a new application as required by Section 87818 whenever there is a change in conditions or limitations described on the current license, including, but not limited to, the following:
- (1) Any change in the location of the facility.
 - (A) Under these circumstances, the licensee shall be required to pay the reduced fee as specified in Section 87836 (c).
 - (2) Any change of licensee, including, but not limited to, the following when the licensee is a corporation.
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.
 - (3) Any change in facility category.
 - (4) Any increase in capacity.
 - (A) The Department shall have the authority to grant capacity increases without resubmission of a total application package, following a Department review and the securing of an appropriate fire clearance.
 - (B) The applicant shall pay the reduced fee as specified in Section 87836 (c).
 - (5) A permanent change in the number of nonambulatory residents.
- (b) A new application Form LIC 200 as required by Section 87818 shall be filed whenever an applicant fails to submit the information necessary to complete the application within the time limit required by Section 87827 (a) if the applicant chooses to continue the application process.

87834	SUBMISSION OF NEW APPLICATION (Continued)	87834
--------------	--	--------------

- (c) A new application, as required by Section 87818 shall be filed whenever a licensee fails to file a renewal application within the specified time limit.
- (d) The Department shall not require the completion of the entire application process when a licensee applies for a new license due to a change in the facility location as specified in Section 87818(f).

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.061 and 1568.072, Health and Safety Code.

87835	CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE FACILITY FOR THE CHRONICALLY ILL LICENSE	87835
--------------	---	--------------

- (a) The facility license shall be forfeited when the licensee:
 - (1) Sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.
 - (2) Surrenders the license to the department.
 - (3) Moves a facility from one location to another.
 - (4) Is convicted of any crime specified in Sections 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
 - (5) Dies.
- (b) If the facility licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility under an Emergency Approval to Operate (LIC 9117 4/93) (EAO) providing the following conditions are met:
 - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility.

87835	CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE FACILITY FOR THE CHRONICALLY ILL LICENSE (Continued)	87835
--------------	---	--------------

- (2) The relative files with the Department within five calendar days of the licensee's death an Application for License (LIC 200 7/91) and evidence of the licensee's death as defined in Section 87801(e)(3).
 - (A) Notwithstanding the instructions on the Application for License (LIC 200 7/91), the Department shall permit the relative to submit only the information on the front side of that form.
- (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprint cards.
- (c) If the adult relative complies with (b)(1) and (2) above, he/she shall not be considered to be operating an unlicensed facility pending the Department decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 87830.
 - (1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 87830 have been met and that the health and safety of the residents of the facility will not be jeopardized.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.061, 1568.061(e), 1568.064, and 1568.072, Health and Safety Code.

87836	APPLICATION PROCESSING FEES	87836
--------------	------------------------------------	--------------

- (a) The applicant or licensee shall pay the fee charged by the Department for processing the application.
- (b) A fee shall be charged at the time of application and annually thereafter.
 - (1) The fee charged at the time of application shall be according to requested capacity as follows:

Capacity	Annual Fee
1 - 6	\$200 plus \$8 per bed
7 - 15	\$250 plus \$8 per bed
16 - 25	\$300 plus \$8 per bed
26 - 50	\$350 plus \$8 per bed

87836	APPLICATION PROCESSING FEES (Continued)	87836
-------	---	-------

- (2) The annual fee shall be according to existing licensed capacity, unless the licensee requests a lower or higher capacity. The fee schedule shall be as follows:

Capacity	Annual Fee
1 - 6	\$200 plus \$8 per bed
7 - 15	\$250 plus \$8 per bed
16 - 25	\$300 plus \$8 per bed
26 - 50	\$350 plus \$8 per bed

- (c) When a licensee moves a facility from one location to another, the reduced application processing fee shall be as follows:

Capacity	Relocation
1 - 6	\$100 plus \$4 per bed
7 - 15	\$125 plus \$4 per bed
16 - 25	\$150 plus \$4 per bed
26 - 50	\$175 plus \$4 per bed

- (1) The reduced fee shall be charged under either of the following conditions:

- (A) The facility moves from one location to another and notifies the Department at least 30 calendar days before actual relocation.

OR

- (B) The facility relocates due to an emergency.

- (2) The fee shall be based on requested capacity at the new location.

- (d) The application processing fee shall be nonrefundable.

NOTE: Authority cited: Section 1568.072, Health and Safety Code. Reference: Sections 1568.05, 1568.061, and 1568.072, Health and Safety Code.